

OPINION SUMMARY
MISSOURI COURT OF APPEALS—EASTERN DISTRICT
DIVISION THREE

STATE OF MISSOURI,)	No. ED95274
)	
Respondent,)	
)	Appeal from the Circuit Court
)	of St. Charles County
vs.)	Cause No. 0711-CR07843
)	
)	
PATRICK S. O'NEAL,)	Honorable Daniel G. Pelikan
)	
Appellant.)	FILED: November 29, 2011

OPINION SUMMARY

Patrick S. O'Neal (Defendant) appeals from the judgment upon his conviction by a jury for attempted stealing, in violation of Section 570.030, RSMo Cum. Supp. 2005, for which Defendant was sentenced to four-years' imprisonment.

REVERSED AND REMANDED.

Division Three Holds: The trial court abused its discretion in overruling Defendant's motion for mistrial after the prosecutor stated in front of the jury that Defendant's medical records should not be admitted into evidence because, "[i]t's simply a way to avoid the defendant testifying as a way to entering statements that he would have made that have no basis, other than his statement." Such reference violated Defendant's rights to freedom from self-incrimination and to not testify.

Opinion by: Mary K. Hoff, Judge Robert G. Dowd, Jr., Presiding Judge and Sherri B. Sullivan, Judge, concur.

Attorney for Appellant:	Matthew M. Ward
Attorney for Respondent:	Shaun J. Mackelprang
	Daniel N. McPherson

<p style="text-align:center">THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
